

Senate Bill No. 440

Passed the Senate August 31, 2006

Secretary of the Senate

Passed the Assembly August 21, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 2890 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 440, Speier. Telecommunications: billing.

Existing law authorizes the Public Utilities Commission to regulate telecommunications services and rates of telephone corporations, except to the extent regulation of commercial mobile radio service is preempted by federal regulation, and to require telephone corporations to provide certain customer services.

Existing law specifically requires a person, corporation, or billing agent to provide a means for expeditiously resolving subscriber disputes over charges for a product or service, the purchase of which was not authorized by the subscriber. Existing law establishes a rebuttable presumption that an unverified charge for a product or service was not authorized by the subscriber and that the subscriber is not responsible for that charge. With regard to direct dialed telecommunications services, evidence that a call was dialed is prima facie evidence of authorization. Existing law requires the commission to require telephone corporations to provide customer service to telecommunication customers that includes, among other things, information concerning the regulatory process and how customers can participate in that process, including the process of resolving complaints.

This bill would authorize a subscriber to present a person, corporation, or billing agent that has charged the subscriber for a direct dialed telecommunications service with evidence to rebut that prima facie evidence of authorization. The bill would prohibit a billing telephone company, while a complaint investigation is pending, from requiring the subscriber to pay the disputed charge or any associated late charges or penalties, sending the disputed charge to collection, or making an adverse credit report based on nonpayment of the disputed charge. The bill would require a person, telephone corporation, or billing

agent that provides a telecommunications bill to include with each bill a statement of the subscriber's rights if billed for unauthorized charges, as prescribed. The bill would authorize the commission by rule to develop standard language to be used for the statement.

The people of the State of California do enact as follows:

SECTION 1. Section 2890 of the Public Utilities Code is amended to read:

2890. (a) A telephone bill may only contain charges for products or services, the purchase of which the subscriber has authorized.

(b) When a person or corporation obtains a written order for a product or service, the written order shall be a separate document from any solicitation material. The sole purpose of the document is to explain the nature and extent of the transaction. Written orders and written solicitation materials shall be unambiguous, legible, and in a minimum 10-point type. Written or oral solicitation materials used to obtain an order for a product or service shall be in the same language as the written order. Written orders shall not be used as entry forms for sweepstakes, contests, or any other program that offers prizes or gifts.

(c) The commission may only permit a subscriber's local telephone service to be disconnected for nonpayment of charges relating to the subscriber's basic local exchange telephone service, long-distance telephone service within a local access and transport area (intraLATA), long-distance telephone service between local access and transport areas (interLATA), and international telephone service.

(d) (1) A billing telephone company shall clearly identify, and use a separate billing section for, each person, corporation, or billing agent that generates a charge on a subscriber's telephone bill. A billing telephone company shall not bill for a person, corporation, or billing agent, unless that person, corporation, or billing agent complies with paragraph (2).

(2) Any person, corporation, or billing agent that charges subscribers for products or services on a telephone bill shall do all of the following:

(A) Include, or cause to be included, in the telephone bill the amount being charged for each product or service, including any taxes or surcharges, and a clear and concise description of the service, product, or other offering for which a charge has been imposed.

(B) Include, or cause to be included, for each entity that charges for a product or service, information with regard to how to resolve any dispute about that charge, including the name of the party responsible for generating the charge and a toll-free telephone number or other no cost means of contacting the entity responsible for resolving disputes regarding the charge and a description of the manner in which a dispute regarding the charge may be addressed. Each telephone bill shall include the appropriate telephone number of the commission that a subscriber may use to register a complaint.

(C) Establish, maintain, and staff a toll-free telephone number to respond to questions or disputes about its charges and to provide the appropriate addresses to which written questions or complaints may be sent. The person, corporation, or billing agent that generates a charge may also contract with a third party, including, but not limited to, the billing telephone corporation, to provide that service on behalf of the person, corporation, or billing agent.

(D) Provide a means for expeditiously resolving subscriber disputes over charges for a product or service, the purchase of which was not authorized by the subscriber.

(e) (1) In the case of a dispute, there is a rebuttable presumption that an unverified charge for a product or service was not authorized by the subscriber and that the subscriber is not responsible for that charge.

(2) With regard to direct dialed telecommunications services, evidence that a call was dialed is prima facie evidence of authorization.

(f) Notwithstanding paragraph (2) of subdivision (e), a subscriber may present a person, corporation, or billing agent that has charged the subscriber for a direct dialed telecommunications service with evidence to rebut the prima facie evidence that the direct dialed telecommunications service was authorized, including, but not limited to, evidence that a call was dialed using a lost or stolen telecommunications device.

(g) While a complaint investigation is pending, the billing telephone company shall not do any of the following:

(1) Require the subscriber to pay the disputed charge or any associated late charges or penalties.

(2) Send the disputed charge to collection.

(3) Make an adverse credit report based on nonpayment of the disputed charge.

(h) If recurring charges arise from the use of those subscriber-initiated services, the recurring charges are subject to this section.

(i) If an entity responsible for generating a charge on a telephone bill receives a complaint from a subscriber that the subscriber did not authorize the purchase of the product or service associated with that charge, the entity, not later than 30 days from the date on which the complaint is received, shall verify the subscriber's authorization of that charge or undertake to resolve the billing dispute to the subscriber's satisfaction.

(j) (1) Notwithstanding any other provision of law, a person, corporation, or billing agent that provides a telecommunications bill shall include with each bill a clear and conspicuous statement of a subscriber's rights if billed for unauthorized charges.

(2) The statement shall describe with specificity the subscriber's rights pursuant to subdivision (g) and disclose that the subscriber will be notified of the results of any investigation of a billing complaint within 30 days from the date on which the complaint was received.

(k) The commission may by rule develop standard language to be used for the statement required by subdivision (j) that describes with specificity only the following information:

(1) The subscriber's rights pursuant to subdivision (g).

(2) The subscriber's right to be notified of the results of any investigation of a billing complaint within 30 days from the date on which the complaint was received.

(l) As used in this section:

(1) "Billing agent" means the clearinghouse or billing aggregator.

(2) "Unauthorized charges" include charges incurred using a lost or stolen telecommunications device.

Approved _____, 2006

Governor